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CASE COMMENTARY

AMLESH KUMAR VS STATE OF BIHAR

- *Ananya Yaduvendu*

1. NAME OF THE CASE- Amlesh Kumar v. State of Bihar

2. CITATION - 2025 SCC OnLine SC 1326, Criminal Appeal (Arising out of SLP (Crl.) No. 5392 of 2024), decided on 9 June 2025.

3. BENCH OF JUDGES - Justice Sanjay Karol, Justice Prasanna B. Varale

INTRODUCTION

The Supreme Court in *Amlesh Kumar v. State of Bihar*¹ examined the constitutional validity of directing or permitting the use of a narco-analysis test during a criminal investigation. The appeal arose after the Patna High Court, while hearing a bail application, accepted the investigating officer's statement that narco-analysis tests would be conducted on all accused persons and witnesses. The appellant challenged this order on the ground that it violated the constitutional protections recognised by the Supreme Court in *Selvi v. State of Karnataka*².

This judgment is highly relevant to contemporary criminal jurisprudence because investigative agencies increasingly rely on scientific techniques to solve complex crimes. While technological advancements can strengthen criminal investigations, the Court reiterated that such methods cannot override fundamental rights guaranteed under Articles

¹ *Amlesh Kumar vs State of Bihar* 2025 SCC OnLine SC 1326

² *Selvi vs State of Karnataka* (2010) 7 SCC 263.

20(3)³ and 21⁴ of the Constitution. The decision highlights the constitutional balance between effective investigation and the protection of individual liberty, privacy, and the right against self-incrimination.

FACTS OF THE CASE

On 24 August 2022, an FIR was registered at Police Station Mahua, Bihar, against the appellant, his parents, and other family members for offences including wrongful restraint, wrongful confinement, assault, kidnapping, cruelty by husband and relatives, criminal intimidation, and common intention. The complainant alleged that her sister had been subjected to repeated demands for dowry and physical assault after her marriage with the appellant. She further alleged that the appellant informed her that his wife had disappeared from the matrimonial home, but despite extensive efforts, she could not be located, leading to suspicion of foul play by the accused persons.

The appellant stated that while travelling to Ayodhya with his wife on 21 August 2022, she got down from the bus for a short break and never returned. He also lodged a missing person complaint at Jahangir Ganj Police Station. Despite continuous investigation, the missing woman could not be traced. The appellant's family members were subsequently granted bail by the High Court.

The appellant's application for regular bail was rejected by the Sessions Court based on the allegations in the FIR and the confessional statements of co-accused persons claiming that the deceased had been thrown into the Saryu River. The appellant thereafter approached the Patna High Court for bail. During the proceedings, the investigating officer informed the High Court that narco-analysis tests would be conducted on all accused persons and witnesses. The High Court accepted this submission and adjourned the matter. Aggrieved by this direction, the appellant approached the Supreme Court.

ISSUES BEFORE THE COURT

The Supreme Court framed the following issues for determination:

1. Whether the High Court was justified in accepting the investigating officer's proposal to conduct narco-analysis tests on all accused persons during the investigation.

³ INDIA CONST. art 20, cl. 3.

⁴ INDIA CONST. art 21.

2. Whether the report of a voluntary narco-analysis test can by itself constitute sufficient evidence to convict an accused in the absence of independent corroborative evidence.
3. Whether an accused possesses an indefeasible right to voluntarily seek a narco-analysis test.

CONTENTIONS OF THE PARTIES

CONTENTIONS OF THE APPELLANT

The appellant argued that the High Court's acceptance of the investigating officer's proposal was directly contrary to the law laid down by the Supreme Court in *Selvi v. State of Karnataka*. It was submitted that compelling an accused to undergo a narco-analysis test violates the right against self-incrimination guaranteed under Article 20(3) and the right to life and personal liberty under Article 21 of the Constitution. The appellant further contended that such investigative techniques cannot be permitted merely because they may assist the investigation, even if they infringe constitutional guarantees.

CONTENTIONS OF THE RESPONDENT-STATE

The State argued that modern investigative techniques are necessary for effective criminal investigation and, therefore, the High Court was justified in accepting the investigating officer's statement that narco-analysis tests would be conducted. According to the State, such techniques were required to uncover the truth in complex criminal cases involving a missing person.

REASONING OF THE COURT

The Supreme Court relied extensively on its earlier decision in *Selvi v. State of Karnataka*, where it had categorically held that involuntary administration of narco-analysis, polygraph, and similar scientific tests violates Articles 20(3) and 21 of the Constitution. The Court stated that these constitutional protections are absolute and cannot be diluted even in the interest of criminal investigation. It observed that involuntary narco-analysis infringes the right against self-incrimination, personal liberty, privacy, and substantive due process.

The Court held that the Patna High Court committed a serious error by accepting the investigating officer's assurance that narco-analysis tests would be conducted on all accused persons while deciding a bail application. Bail proceedings are confined to considering factors such as the seriousness of allegations, evidence available, period of custody,

likelihood of absconding, and possible interference with witnesses. They do not permit courts to order or approve coercive investigative techniques. The Court also referred to its earlier decision in *Sangitaben Shaileshbhai Datana v. State of Gujarat*⁵, where it had cautioned that directing such tests at the bail stage effectively converts bail proceedings into a mini trial.

Regarding evidentiary value, the Court clarified that even when a narco-analysis test is conducted voluntarily and with all necessary safeguards, its report cannot by itself form the basis of conviction. The Court relied on earlier precedents holding that a conviction must be supported by independent corroborative evidence. However, information subsequently discovered as a consequence of voluntary disclosures may be admissible under Section 27 of the Indian Evidence Act, 1872⁶.

On the third issue, the Court observed that an accused does not possess an absolute or infeasible right to demand a narco-analysis test. Such a request must be considered by the court based on the totality of the circumstances, including whether consent is voluntary, whether appropriate safeguards are followed, and whether the request is made at an appropriate stage of the proceedings. The Court indicated that such requests may ordinarily arise when an accused seeks to lead evidence during trial. It also reiterated the safeguards prescribed in the *Selvi* case, including informed consent before a Judicial Magistrate, legal assistance, independent medical supervision, and proper documentation of the procedure.

JUDGEMENT

The Supreme Court allowed the appeal and set aside the order of the Patna High Court dated 9 November 2023. It held that the High Court had acted contrary to settled constitutional principles by accepting the proposal to conduct narco-analysis tests on all accused persons during the investigation. The Court ruled that involuntary narco-analysis tests are unconstitutional, that reports of voluntary narco-analysis cannot by themselves form the sole basis for conviction, and that an accused has no absolute right to insist upon such a test. The court must assess any request for a voluntary narco-analysis test based on free consent, adequate safeguards, and the overall circumstances of the case. The appellant's bail application, if pending, was directed to be decided independently in accordance with law.

⁵ *Sangitaben Shaileshbhai Datana v. State of Gujarat* (2019) 14 SCC 522.

⁶ Indian Evidence Act, No. 1 of 1872, § 27.

CONCLUSION

Amlesh Kumar v. State of Bihar is a reminder that even in the pursuit of truth, justice cannot lose its humanity. The Supreme Court reaffirmed that constitutional rights are not obstacles to justice but its very foundation. By protecting dignity, liberty, and fairness, the judgment ensures that justice is achieved without sacrificing the values it exists to uphold and preach.